

BEFORE THE
CALIFORNIA CLEAN ENERGY JOBS ACT
CITIZENS OVERSIGHT BOARD

CALIFORNIA ENERGY COMMISSION
CHARLES IMBRECHT HEARING ROOM - FIRST FLOOR
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

THURSDAY, JULY 13, 2017

1:00 P.M.

Reported by:
Peter Petty

APPEARANCES

BOARD MEMBERS PRESENT (*Via telephone and/or WebEx)

Kate Gordon, Chair

James (Walkie) Ray, Vice Chair

Randall Martinez, Board Member

Chelina Odbert, Board Member

David Dias, Board Member

Mark Gold, Board Member

COMMISSIONERS PRESENT

Andrew McAllister, California Energy Commission,
Commissioner

CEC STAFF PRESENT

Pam Doughman, Policy Adviser to Chair Weisenmiller

Eunice Murimi

David Ashuckian

Haile Bucaneg

ALSO PRESENT

Heather Baugh, Assistant General Counsel, California
Natural Resources Agency

Nidia Bautista, Consultant, Senate Standing Committee on
Energy, Utilities & Communications

APPEARANCES (Cont.)

ALSO PRESENT (Cont.)

David Supan, Audit Manager, Office of State Controller
Betty T. Yee

Lisa Kurokawa, Audit Manager, Office of State Controller
Betty T. Yee

PUBLIC COMMENT: (*Via telephone and/or WebEx)

Anna Ferrera, School Energy Coalition

I N D E X

THE BOARD WILL CONSIDER AND MAY TAKE ACTION ON THE
FOLLOWING ITEMS:

1.	INTRODUCTION AND ROLL CALL OF BOARD MEMBERS TO DETERMINE QUORUM. (Board Chair Kate Gordon)	5
2.	APPROVAL OF MINUTES FROM MARCH 21, 2017 CITIZENS OVERSIGHT BOARD MEETING. (Board Chair Kate Gordon)	6
3.	UPDATE ON CHANGES IN BOARD COMPOSITION. (Board Chair Kate Gordon)	7
4.	UPDATE ON SENATE BILL 518 - CLEAN ENERGY JOB CREATION PROGRAM AND CITIZEN OVERSIGHT BOARD. (Nidia Bautista, Consultant, Senate Standing Committee on Energy, Utilities and Communications)	9
5.	PRESENTATION, DISCUSSION AND POSSIBLE VOTE ON THE ANNUAL FINANCIAL AUDIT ON THE CLEAN ENERGY JOB CREATION FUND. The State Controller's Office will present its completed financial report on the financial statements of the Clean Energy Job Creation Fund. (David Supan, Audit Manager, Office of the State Controller Betty T. Yee)	53
6.	PRESENTATION, DISCUSSION, AND POSSIBLE VOTE ON ANNUAL PROGRAM AUDIT ON THE CLEAN ENERGY JOB CREATION FUND EXPENDITURES. The State Controller's Office will present its completed program report on the energy projects of the Clean Energy Job Creation Fund expenditures. (Lisa Kurokawa, Audit Manager, Office of the State Controller Betty T. Yee)	56
5.	PUBLIC COMMENT	48, 75
	Adjourn	84
	Reporter's Certification	85
	Transcriber's Certification	86

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

JULY 13, 2017

1:08 P.M.

CHAIR GORDON: Okay. We are going to go ahead and start, so I don't have a gavel sadly, but I will call the meeting to order. And then Eunice is filling in for Jack today. Jack's on jury duty.

Eunice, would you mind doing roll call please for the members?

MS. MURIMI: Okay. Greetings everyone --

CHAIR GORDON: And I think you have to be on, you have to be miced. Everyone else has to be miced, because of the reporter.

(Pause to set up microphones.)

MS. MURIMI: Greeting everyone. We shall begin the roll call for the Board Members for the Citizen Oversight Board, pardon me.

CHAIR GORDON: It's all right, take your time.

MS. MURIMI: We'll now begin the roll call for the Citizen Oversight Board Meeting. And first I'm going to begin with the Chair Kate Gordon?

Board Member Gordon?

MS. MURIMI: And pardon me, all mics have to be on red for those on WebEx to be able to hear you. Let me continue.

James Ray?

1 VICE CHAIR RAY: Here.

2 MS. MURIMI: Chelina Odbert?

3 CHAIR GORDON: She is outside and she will be

4 late, but we'll record her when she comes in.

5 BOARD MEMBER HARRIS: Here.

6 MS. MURIMI: Randall Martinez?

7 BOARD MEMBER MARTINEZ: I'm here.

8 MS. MURIMI: David Dias?

9 BOARD MEMBER DIAS: I'm here.

10 MS. MURIMI: Mark Gold?

11 BOARD MEMBER GOLD: I'm here.

12 MS. MURIMI: Thank you.

13 And I'll pass it over to Chair Kate Gordon.

14 CHAIR GORDON: Thank you. I just want to say

15 we're happy to have Mark Gold here in person, because we've

16 never met you in person before. So thank you for joining

17 us from L.A., right?

18 BOARD MEMBER GOLD: Yeah.

19 CHAIR GORDON: Thank you for being here on this

20 exciting day in Sacramento.

21 We are going to move on to the approval of the

22 minutes. So let it be reflected that Member Odbert just

23 came in and can you have a seat and I need you to sign

24 here. Yeah, thank you for joining us. You came in just in

25 time for the approval of the minutes.

1 So I don't know if folks have looked at the
2 minutes, but can we get a motion and a second on the
3 minutes, please?

4 BOARD MEMBER DIAS: So moved.

5 BOARD MEMBER GOLD: Second.

6 CHAIR GORDON: Great. We can just a voice vote
7 on this I think, all in favor of approving the minutes say
8 aye.

9 (Ayes.)

10 CHAIR GORDON: Any opposed? Any abstentions?

11 So moved, thank you very much.

12 On to item three, just as I'm happy to have Mark
13 Gold here in person, I am sad to say that our friend Arno
14 Harris has submitted his resignation letter from the Board,
15 which is really disappointing. We all really liked working
16 with Arno and we're very sad that's he left. I'm going
17 just read it, because it's a nice little letter.

18 So he says, "Chair Gordon, please let this letter
19 serve as notice of my resignation from the Proposition 39
20 Citizen Oversight Board effective August 31st. My work and
21 family commitments require more of my attention and I
22 regret I do not have sufficient time to give to my Board
23 duties.

24 "I'm proud of the work you've done in my two
25 years on the Board to provide oversight on the use of

1 program funds to improve California schools. Proposition
2 39 is now well on its way to fulfilling the voters and
3 Legislature's intent to provide schools with the means to
4 make badly needed improvements while helping the state meet
5 its energy goals. I'm hopeful that with the changes we've
6 recommended the program will be even more successful and
7 our elected leaders will see fit to continue its funding.

8 "One of the great pleasures in my time on the
9 Board has been working with you, the other Board Members,
10 and CEC staff. I will miss the opportunity to work with
11 all of you.

12 "Thank you for your leadership as Board Chair. I
13 look forward to your continued success and the success of
14 the Proposition 39 programs. Sincerely, Arno Harris."

15 So I thought that was a nice letter, but we will
16 miss him. What this means is that first of all, I realized
17 while I was reading that he says, "Effective August 31st,"
18 which means he technically is still on the Board, so we
19 should mark him as absent.

20 Second, we now have I think two open seats and at
21 least Arno's is an AG seat and the other one is a
22 Controller seat?

23 MS. BAUGH: I think it is.

24 CHAIR GORDON: Jack and I have been in touch with
25 the relevant bodies to try to push for those seats to be

1 filled. And I personally, am happy to take from any of you
2 any thoughts on -- just send me an email -- on what you
3 think we need on the Board, what kinds of things we should
4 be saying we would like to see on the Board when they fill
5 the seats. So disappointing news, but that's where we are.

6 All right, we today just briefly on the agenda we
7 have two big things, one is we're going to get an update on
8 the legislation that we've been in touch with you about,
9 which is specifically legislation related to the Citizens
10 Oversight Board and the California Clean Energy Jobs
11 Program. And we're going to get an update on progress
12 there. And then we're going to get a longer update and
13 potential vote, the one potential vote today, is on the
14 audit. That is our other big agenda item, besides our
15 report.

16 So first for item four, I'm turning it over to
17 Nidia Batista, who I have known for years from early work
18 on this program and now is serving as a Consultant to the
19 Senate Committee on Energy, Utilities and Communications to
20 give us an update on Senate Bill 518.

21 Where if you could do -- you can come to this
22 table. Nidia, if you could talk to us about -- give a
23 brief overview of what's in the legislation and then talk
24 to us about where it stands. And then I think the Board
25 members will have questions.

1 MS. BAUTISTA: Okay. Good afternoon, everyone.
2 Thank you, Ms. Gordon.

3 It's a pleasure to be here with you today and
4 obviously this important body in terms of what I consider
5 to be one of the really wonderful projects in our state
6 government in terms of providing both the benefits of
7 energy efficiency, energy savings and improving the quality
8 of life for our students at schools, while also providing
9 jobs for our local community.

10 As Ms. Gordon mentioned, I actually was working
11 with then Senator Kevin de Leon, who's now still a Senator,
12 and now is pro Tem, when Prop 39 after it passed. And then
13 we helped work with his office, and the folks involved on
14 the negotiating language that was in the Budget trailer
15 bill, SB 73 FAQ, at that time in 2013.

16 And have admittedly followed this program, though
17 not as closely as some of you have. But have been
18 generally very pleased with the efforts and particularly
19 proud of the work of the Energy Commission, who I think has
20 just done such a fantastic job with very limited resources.
21 And really making sure this program is doing all that it
22 can in terms of meeting the intent here.

23 But in terms of legislation there is -- obviously
24 the program was initially seeded as a five-year program in
25 the initiative. And there has been this debate about

1 extending it. And obviously Senator de Leon, or excuse me
2 Pro Tem de Leon, has authored legislation earlier this year
3 to help extend that program. I will tell you that SB 518
4 is that bill.

5 Tomorrow's actually an important deadline in the
6 legislative process where bills that have a fiscal impact,
7 which 518 does, are technically -- they must move out of
8 their policy committees by that date. So I will report to
9 you that 518 is actually still in its policy committee, in
10 Assembly Natural Resources. But the good news for you, as
11 it so happens with legislation and in the Legislature,
12 there's actually a new bill that's now been adopted and now
13 actually been signed by the Governor on July 10th, which is
14 SB 110. And so a lot of the provisions that are in 518,
15 were now moved into a Budget trailer bill and that was
16 negotiated through the Budget agreement and now it's signed
17 by the Governor on the 10th of this month.

18 So still very fresh news, but I just wanted to
19 report that to you.

20 And so I'm happy to report more so, I think, but
21 more relative to this conversation will be the elements
22 that are in SB 110, which again are very similar to what
23 was in 518.

24 But let me just start in terms of characterizing
25 that. There was an interest, and I know that this Board

1 certainly has acknowledged that while many of our school
2 districts and LEAs are taking advantage of this program,
3 unfortunately there are several for which they just
4 haven't. And there's a myriad of reasons for that. For
5 some it's really more of a fit issue, in terms of their
6 priorities for those LEAs. But I would say that overall
7 only we've seen that charter schools, in particular, have
8 not taken advantage of that as compared to the public
9 school districts.

10 An acknowledgement of the fact that there are
11 these dollars there, and in the interest making sure that
12 we expedite and maximize the use of these dollars --
13 because as you all know the initiative allowed for these
14 funds to not just be used by schools, they could have been
15 used by local governments as an example and certainly also
16 universities and others. And so with that in mind Pro Tem
17 de Leon was interested at least sweeping some of the
18 current funds, to then repurpose those dollars so that
19 they're not just sitting there.

20 So specifically the bill would allocate \$75
21 million towards school bus retrofits, and replacements.
22 While admittedly school buses was not something originally
23 envisioned for Prop 39 I think the concern here was driven
24 by a looming deadline that schools are facing, as relates
25 to their school buses. And being able to meet some air

1 pollution regulations that have been adopted by the Air
2 Resources Board, which are -- the deadline is looming this
3 fall. And so there was an interest to actually help some
4 of the school districts make sure that their school buses
5 transitioned to clean air buses in a way that would meet
6 that deadline. So that's 75 million of monies swept would
7 be for that purpose.

8 And then another 100 million would be actually
9 invested into the ECCA, so this is the Energy Conservation
10 Assistance Act Loan Program, which was seeded for the
11 education in Southern Cal, (phonetic) which the original
12 Prop 39 budget negotiation also provided monies for.

13 So it's \$100 million for this loan program and
14 with some additional guidance around prioritization of
15 schools. You may recall that ECAA has largely been an
16 application tech program. LEAs can submit applications and
17 it's essentially a first come, first served program.

18 With the new language it still continues to be
19 that application-type program, but it does provide for some
20 guidance around making sure that there's some
21 prioritization for base bond, the percentage of students
22 that are eligible for free and reduced priced meals. So
23 that being a proxy for need obviously, in terms of
24 resources as well as consideration for energy statements.

25 Without a doubt, this is an energy savings

1 program as well as the geographic diversity. Considering
2 it's an application programming it's possible you could get
3 applications all from one area of the state and then the
4 rest of the state doesn't get to take advantage of that.
5 So we're asking the Energy Commission in making sure that
6 there's some diversity there.

7 And then also diverse in terms of the size of the
8 LEAs, the local education agencies. As you all are very
9 familiar with, there's quite a variety of size of our
10 schools out there. You know, everything from very small to
11 some very large school districts. And so we just want to
12 make sure that there's a good mix there, so that's not all
13 going to maybe well-heeled large school districts.

14 So again, the \$75 million for school buses, \$100
15 million for these loan accounts, and then any remaining
16 dollars from the money swept -- and I'll speak in terms of
17 (indiscernible) sweeping -- would then be directed to this
18 new program under Prop 39, which largely mimics the
19 existing program.

20 Let me speak a little bit about the actual
21 sweeping of the funds. The intent here again was the idea
22 that we want to maximize the use of these dollars. And I
23 think the Pro Tem was very interested, and the Legislature
24 and the Governor obviously, because this now has been
25 signed, to make sure that these monies aren't just sitting

1 there and that they're really being utilized.

2 But there's also recognition that this has
3 obviously been a five-year program and frankly we're still
4 in the middle of those five years. And so we don't want to
5 hurt the schools who are taking advantage of the program,
6 but they just haven't finished finalizing their
7 applications.

8 And so the sweeping date is actually -- basically
9 the Energy Commission is going to provide an estimate of
10 all of the local educational agencies, so the LEAs. So any
11 LEA or school district, charter school, etcetera, that has
12 not submitted any energy expenditure plan as of March 1st
13 of next year of 2018, those monies would be left for those
14 purposes.

15 And so what that allows is that allows our school
16 districts that are, again it's a five-year program, they're
17 still in the middle of finalizing the application to allow
18 them to continue to do that. And so again we're not trying
19 to hurt schools for taking advantage of the program, and
20 they're just in the middle of their application process.

21 So I hope that that helps clarify, and that our
22 hope is that that's committed to (indiscernible) And our
23 understanding is there's going to be sufficient loan
24 funding to accomplish all of this, even with that. But I
25 would say with probably a more conservative sweep of the

1 money.

2 So as an example if an LEA or there's a school
3 district maybe that has submitted an application for the
4 first two years of funding, but they haven't submitted an
5 application for those next three years of funding, those
6 monies are not considered available as of March 1st. But
7 if there's an LEA that hasn't submitted any applications
8 for any of the five years, then all of those dollars would
9 be considered available.

10 So I'll stop there and then maybe talk a little
11 bit more about the future program and what that looks like
12 in case there are questions here.

13 CHAIR GORDON: That's a lot of information.

14 MS. BAUTISTA: Yeah, it was a lot.

15 CHAIR GORDON: And I apologize to the rest of the
16 Board that we had allocated --

17 MS. BAUTISTA: Well, it was very recent, so --

18 CHAIR GORDON: -- legislation in our packets, so
19 yeah exactly. Things move quickly.

20 MS. BAUTISTA: They do.

21 CHAIR GORDON: I wanted to see -- and I should
22 have introduced him earlier. I want to see Commissioner
23 McAllister who is with us from the CEC -- thank you for
24 being here -- wanted to add anything to that first set of
25 information. And then we should have questions also from

1 folks.

2 COMMISSIONER MCALLISTER: No, no. That's good.
3 Thank you.

4 CHAIR GORDON: Thank you, Commissioner. Anyone
5 on the Board want to ask anything about this first set of
6 information Nidia's given us? It's a lot to digest, I
7 guess.

8 Walkie?

9 VICE CHAIR RAY: So every year, 75 million was
10 swept?

11 MS. BAUTISTA: Thank you for clarifying that.
12 Yeah, it's actually not every year. So it's just this one
13 time that as of March 1st of next spring, the Energy
14 Commission will do an estimate based on that date
15 thereabouts, to basically say, "Okay. We this universe of
16 LEAs, these universe of allocations that have been provided
17 over these last five years," because by then we'll have the
18 fifth year allocations that have been completed.

19 Then they'll say of these universe, which LEAs
20 have not participated in the program at all? And then they
21 will then calculate that number and provide that to the
22 Legislature for these purposes. So it's a one-time sweep.

23 CHAIR GORDON: Just one second, just to clarify
24 that more, is the 75 and the 100, the 75 for buses and the
25 100 for ECAA both one time?

1 MS. BAUTISTA: Yes.

2 CHAIR GORDON: Interesting. Okay.

3 MS. BAUTISTA: Yes.

4 VICE CHAIR RAY: Well, the total estimated funds
5 that are available is about 200 million a year? Is that a
6 close approximation or --

7 MS. BAUTISTA: You mean, as far as what's not
8 being --

9 VICE CHAIR RAY: Well, the income stream from
10 Proposition 39, which is going to continue.

11 MS. BAUTISTA: Yes. Oh you mean for the future
12 years? So the future years, for now I haven't discussed
13 yet.

14 VICE CHAIR RAY: Oh, okay.

15 MS. BAUTISTA: Yeah, but as an example when I
16 look at what's been allocated these past four years, I
17 think it's been roughly between 400 to -- well 381. Well,
18 as low as 279 I guess one year all the way up to 400
19 million. So it's varied depending on what the calculation
20 has been on the corporate taxes, changes from the
21 initiative and what (indecipherable).

22 COMMISSIONER MCALLISTER: Can I just chime in a
23 little bit?

24 CHAIR GORDON: Please. Yeah.

25 COMMISSIONER MCALLISTER: So there really are

1 only two issues. One, we've got the existing program
2 that's got its allocation and it's cranking away year to
3 year. Every year there's a number and then that gets
4 allocated amongst the schools by a formula. And so now
5 that we have this program and we'll have some stranded
6 funds that have not been asked for and look like they won't
7 get asked for.

8 So one problem the Legislature had was well what
9 do we do with those funds? And so what Nidia's talked
10 about is okay well now with what we know, we know there's a
11 problem with school buses. We know that ECAA-Ed has been
12 successful and deserves -- is sort of a good channel for
13 stranded funds going forward. So we're going to put some
14 money in there and we're also going to reallocate with some
15 diversity really and economic disadvantaged criteria built
16 in to the rest of the stranded funds.

17 And so that sort of is what the Legislature had
18 to do to sort of get the point where then we could talk
19 about okay going forward, what is it we really need to do
20 with the funds? And so I think that's kind of why
21 (indiscernible) thought that way. But the Legislature just
22 wanted to kind of fill in any perceived gaps in the program
23 with these remaining funds and look at some possibilities.

24 CHAIR GORDON: Thanks, Commissioner.

25 And you may remember that in our report we also

1 could have separate out remaining funds within two, three
2 years. But I'm going to just go down the line, because I
3 think people have questions right now.

4 BOARD MEMBER MARTINEZ: On the idea of the ECCA-
5 Ed \$100 million (indiscernible) allocation, are those
6 direct lending.

7 CHAIR GORDON: Turn that on. I think your mic
8 might be not on. There.

9 BOARD MEMBER MARTINEZ: On the ECCA-Ed \$100
10 million allocation, are those for direct loaning or are
11 they loan guarantees with partnerships with the private
12 institutions?

13 MS. BAUTISTA: So that is an existing program and
14 again the initial Prop 39 budget negotiated, at least the
15 first two if not three years now, I'm trying to remember.
16 It was the first two years provided some money, a total of
17 \$50 million actually that went into the ECAA or roughly
18 thereabouts so (indiscernible), but about close to \$50
19 million had already gone into the ECAA-Ed program.

20 ECAA has been a long-standing program that the
21 Energy Commission has overseen with regards to energy
22 efficiency savings. In this case, there was a subaccount
23 created specifically under Prop 39. The Budget negotiated
24 where the was money available only to LEAs that would be
25 eligible for the Prop 39 program, so for schools. And it

1 was allowable at it was supposed to be low and zero
2 interest loans. And the payback here I believe, and I'll
3 look to the Energy Commission, I believe they're usually 20
4 years or so. So this is essentially an additional pot of
5 funding that's available to schools.

6 The first bunch of money for most of our ECAA-Ed
7 account has largely been subscribed fully at this point.
8 There's a little bit of remaining money, but not much. And
9 so the idea is that with it being a loan program, the
10 beauty of a loan program is that once the schools repay
11 that -- and ECAA, I will just tell you, just in general has
12 had a fantastic record in terms of any -- there's been very
13 little if any defaults at all.

14 That those funds then replenish the account and
15 then can be available to help other schools, which is
16 that's part of the beauty of the loan. But we also
17 recognize not all schools have the ability to borrow and
18 then pay that back even over 20 years.

19 BOARD MEMBER MARTINEZ: Thank you.

20 MS. BAUTISTA: Uh-huh.

21 CHAIR GORDON: And just as a reminder to the
22 Board, we actually recommend and that money get put back in
23 ECAA in our report. So we are happy about this,
24 potentially happy about this. (Laughter.)

25 BOARD MEMBER GOLD: So this would sort of fall

1 into the happiness category, which is -- so how was this
2 Advisory Board engaged at all from the standpoint of
3 obviously, which was some pretty 11th hour, on decisions on
4 utilization of resources?

5 MS. BAUTISTA: I do know that there was a
6 recognition of the recommendations that came out of the
7 report and I don't recall them all off the top of my head.
8 I know that there's obviously the number of folks involved
9 in different processes on the creation of that, so I don't
10 know some of the Board Members might want to speak to that
11 more directly.

12 CHAIR GORDON: We weren't, except for in doing
13 our recommendations in our annual report, so we were not --
14 we through Jack, did of course make sure that everybody had
15 the report. In the Legislature, we actually personally
16 delivered it this year rather than just sending it. And
17 offered testimonies, but we didn't actually testify. So we
18 were not involved other than the report recommendations,
19 which is a good reminder that those report recommendations
20 are important actually. But yes, we weren't.

21 BOARD MEMBER GOLD: Okay. So just a follow up on
22 -- so I think the allocation of the resources, the one-time
23 175, those are very admirable uses. But it's something
24 that I know I've brought up in previous meetings here that
25 I'm a little bit concerned about on, is that there are some

1 schools in some communities that I think we could be
2 targeting better on more transformative projects in
3 disadvantaged communities that we're not doing.

4 So that it's sort of interesting to me from the
5 standpoint of okay, well this is where the 175 should go
6 on, when we sort of struggled with some of these
7 discussions here. Is it a constraint? So it's just a
8 difficult thing (indecipherable), to see that sort of thing
9 happen procedurally without that sort of discussion on it.
10 And it's the sort of thing that I would frankly think that
11 the Pro Tem would actually be deeply supportive of, is that
12 exact concern.

13 So anyway, I just wanted to have point in as a
14 second follow up, if you could maybe respond to it? You
15 don't have to.

16 MS. BAUTISTA: Right now, I'm going to have -- I
17 can take the second follow up, yeah.

18 BOARD MEMBER GOLD: Okay. Well, the second
19 follow up was just to make sure, just from the standpoint
20 of clarity on where -- it sounds like what you just
21 described as where we are right now, post on the Budget
22 trailer bill being signed into law. And I'm just sort of
23 jumping back and forth, I just wanted to understand exactly
24 where are we today with that recent change versus what
25 would SB 518 even modify from where we are today?

1 MS. BAUTISTA: I'm not sure I fully understand
2 the question. I mean, so I don't know if you want to
3 clarify, but in terms of this Budget -- and there's still
4 more in the budget trailer that I will speak to in terms of
5 the future program and I haven't spoken to that portion
6 yet.

7 CHAIR GORDON: Let's come back to that question
8 after Nidia talks about -- she's just talking about the
9 unallocated money.

10 MS. BAUTISTA: Yeah.

11 CHAIR GORDON: So let's get back to that
12 question, which is a good one, after we hear about the next
13 phase of the program. Any other questions related just to
14 the unallocated funding sweeping issue?

15 Chelina?

16 BOARD MEMBER ODBERT: It's not really -- it's not
17 a question. I guess I'm just really surprised about the
18 school bus use of this and wonder if you can offer any more
19 about how it got there, besides people needed to fix the
20 school buses?

21 MS. BAUTISTA: Yeah. In proposing 518, and
22 obviously it being signed into the budgets, there's this
23 agreement from both houses and the Governor that these
24 funds can be used for that purpose. I'm not sure I can say
25 much more to that, but...

1 BOARD MEMBER ODBERT: No problem, I was just
2 wondering.

3 CHAIR GORDON: David, go ahead.

4 BOARD MEMBER DIAS: Actually that, I was going to
5 ask the same kind of thing, is how much more
6 (indiscernible) going to get out of the 75 million? I was
7 trying to Google how much a school bus costs and I was
8 trying to figure and do the math, but so in other words
9 what are we trying to accomplish with how many school buses
10 or repairs or whatever?

11 MS. BAUTISTA: Yeah, I believe that dollar amount
12 and I'm trying to see if I have it in here, because I
13 remember when I analyzed 518 when it first came through our
14 Committee -- and I don't know if I have my analysis here,
15 but I might -- I think I have a floor analysis version,
16 which is smaller from my analysis.

17 But ARB at their December hearing last year, so
18 this is 2016, had a cool presentation for the Board around
19 the need regarding school buses. And my understanding is
20 that dollar amount, if I remember accurately was pegged
21 about that rate for the amount of buses they believe would
22 be out of compliance, or roughly out of compliance come
23 this fall.

24 The assumption there was that half of the money
25 would likely be required for replacement buses, because

1 some of these buses are just of the age that and the
2 vintage that they frankly cannot be upgraded in a way that
3 would be cost effective or even feasible, because it's just
4 older buses and they can't really retrofit them. And that
5 the other half of those buses would likely be out of
6 compliance -- or actually these are the most polluting
7 buses actually even -- the more that would be out of
8 compliance. But the other half would be upgraded, so there
9 would be a retrofit for those.

10 And that this dollar amount, if I remember
11 accurately, was fairly reflective of attempting to address
12 the need for those most polluting buses. Half of which
13 would likely have to be replaced and half of which would
14 need to be retrofitted.

15 And this legislation would basically have the ARB
16 identify which of those buses those are, and have the CEC
17 administer the program to actually provide the grants for
18 those purposes. So it would be driven by ARB's analysis
19 around which buses would make the most sense and then have
20 the CEC administer the program. Not unlike they've done in
21 the past with some other school bus retrofit programs.

22 BOARD MEMBER DIAS: Thank you.

23 CHAIR GORDON: Would you like to ask anything?

24 COMMISSIONER MCALLISTER: Yes, I would. So
25 thanks for all this and I don't want to -- I want you to

1 get onto your next piece, but so we will have reflows from
2 the first 50 million. And as the schools pay back, that
3 will be money coming back in that can be loaned out to new
4 schools. Is there -- I apologize for not having read the
5 language -- but is there an intent or something explicit in
6 the language about the application of a new criteria for
7 those funds when we loan them out again?

8 CHAIR GORDON: I'm sorry. You're talking about
9 ECAA?

10 COMMISSIONER MCALLISTER: Yeah, to ECAA, sorry.

11 MS. BAUTISTA: Well, yes in the sense that it
12 says that monies when they get replenished would go back to
13 that purpose, but I would say it's more broadly --

14 COMMISSIONER MCALLISTER: But (indiscernible)

15 MS. BAUTISTA: Yeah, it's not explicit, as
16 explicit maybe as it would be.

17 COMMISSIONER MCALLISTER: With the new criteria
18 sort of, yeah we want to flow towards these (indiscernible)
19 and sort of layer on some of that criteria. We're going to
20 have reflows as well, not just the new 100 million, we're
21 going to have another 50 million coming back in that will
22 then go out to schools.

23 MS. BAUTISTA: Right. And I do want to clarify
24 though that it's the proxy for disadvantaged, other bills.
25 And I've work on other bills where it's disadvantaged

1 communities as defined. In this case, it's really the
2 proxy for the school in terms of the number of students
3 that are on free and reduced price meals. So, they just
4 want to make sure that folks are clear on that, because
5 there are other bills that deal with disadvantaged
6 communities and help extend the funding here.

7 CHAIR GORDON: All right. We're going to -- oh,
8 Chelina, did you want to get to that question you had
9 before?

10 BOARD MEMBER ODBERT: Oh, yeah. I'm sorry, I
11 forgot I had a second question.

12 MS. BAUTISTA: Sure.

13 BOARD MEMBER ODBERT: Just I was wondering if you
14 had any insight, speaking of proxies, of how the 10 percent
15 for attendance -- not more than a 1,000 -- the 10 percent
16 between 1,000 and 2,000; how those numbers were
17 established?

18 MS. BAUTISTA: Yes. Sure. If I may then I can
19 turn now to what the future program looks like if that's
20 okay?

21 CHAIR GORDON: Yes, why don't you address one
22 thing on these comments? I just wanted to ask if there's
23 anything that you can share with me, and I can share with
24 the Board, that gives any of the numbers behind the bus
25 decision? I think we're particularly interested in actual

1 energy savings, and just for our information how that's
2 (indiscernible) --

3 MS. BAUTISTA: Yeah. I mean, I can definitely
4 send you what I got from the author's office and what I
5 clipped from the ARB reports. And I can forward that to
6 you. I don't have that with me today, but I'll be happy to
7 provide the report, that the Board can have.

8 CHAIR GORDON: Thank you. That will be useful
9 for us, especially since we're overseeing that too. We'd
10 like more information on that.

11 MS. BAUTISTA: Yes, without question.

12 Now, in terms of the future program -- which was
13 kind of what some of these questions are leading into -- so
14 again the initial seed of the estimated amount of funding
15 75 million for school buses, 100 million for the loan
16 account and then any remaining funds, because there may in
17 fact be more than 175 million even as of next March for
18 LEAs that just haven't applied at all. It would then be
19 directed into what is considered kind of the next -- almost
20 like a Prop 39 Version 2.0, if you will. So it's the new
21 version of Prop 39, which what I would describe as is very
22 similar to the existing program with a couple of big
23 differences.

24 One, if you want to know with the existing
25 program, there is a guaranteed allocation to each LEA. So

1 that will now change. I think the assumption is that it's
2 very unlikely that this fund will get the same level of
3 funding that it has in the recent past. It's possible, but
4 it's unlikely.

5 And the reason for that is that the new program
6 will now be, aside from the remaining funds that will be
7 allocated, will be annually appropriated by the Legislature
8 and the Governor, through the budget process.

9 So this bill will establish the framework for
10 this new program, Version 2.0 if you will. But it doesn't
11 actually, aside from the estimated amounts of monies from
12 March of next year, will not allocate those future dollars.
13 Instead, that will go through the normal budgeting process.

14 CHAIR GORDON: I just wanted to clarify that,
15 just so we're all on the same page. What you're saying is
16 through the first five years, funding for this program came
17 from a specific amount from the corporate tax --

18 MS. BAUTISTA: Correct.

19 CHAIR GORDON: -- funds, because of the change
20 from single payer to dual payer to a single payer, right?

21 MS. BAUTISTA: Yes.

22 CHAIR GORDON: So production of those funds for
23 this program that was just set, is up to 550 million?

24 MS. BAUTISTA: Yeah. 50 percent of whatever was
25 attributed from that change.

1 CHAIR GORDON: So 50 percent, you're saying that
2 nothing will be guaranteed, going forward.

3 MS. BAUTISTA: Correct.

4 CHAIR GORDON: And it will be an appropriation
5 process only?

6 MS. BAUTISTA: Correct.

7 CHAIR GORDON: And in that appropriation process
8 -- you may not know this, but you may -- will half of
9 whatever appropriated go into the Prop 98 fund?

10 MS. BAUTISTA: I'm sorry. Oh, will it all go to
11 Prop 98?

12 CHAIR GORDON: Will a portion go to Prop 98,
13 because it's being appropriated for schools?

14 MS. BAUTISTA: I will say that I think the intent
15 is that if it -- and this maybe a discussion to be had in
16 the future years when that happens -- but I would say that
17 probably a strong case maybe to be made that any money
18 allocated for this purpose, since it's still meeting the
19 needs of the schools, would meet the Prop 98 thresholds.
20 But because we haven't actually appropriated those dollars
21 I would say that that would be yet to be decided.

22 CHAIR GORDON: Okay. All right, go ahead. So no
23 (indiscernible) appropriation and it's not going to be
24 without the formula, it sounds like.

25 MS. BAUTISTA: Correct. So the formula's changed

1 now. Again, if you would recall the actual initiative
2 stated that this program was going to be a five year --
3 this piece of the program was five years and then it would
4 sunset. And then the monies would all go back to the
5 general fund, as the other portion of the change attributed
6 to the corporate tax change foese today. So right now, this
7 program only gets up to -- gets 50 percent of whatever's
8 attributed to that change in corporate tax calculation.

9 For future years, this will be an annual
10 appropriate process, just as it is with any other item in
11 the general fund, as to budgeting. I think that part of
12 that I'm sure will be based on the success of the program,
13 which I think we're now seeing the results of. And so
14 certainly the demonstration of the success will help to
15 further those efforts.

16 I will say that in general. And then obviously I
17 joke with people that my job, if I had a crystal ball and a
18 time machine, I could solve a lot of problems. But in this
19 case, I don't know for sure what the future Legislature
20 will do. I would imagine they would base it on whatever
21 the conditions are for the budget for that year. But I
22 know that this program has received bipartisan support. So
23 it's been a well-received program people are generally very
24 happy with.

25 I think one of the issues I think has been a

1 challenge, as you all know, has been that there are some
2 LEAs that who just have not been able to participate. So
3 some of those struggled with the existing formula, though
4 it provided an opportunity to each LEA, it also meant we've
5 left stranded money there. Because not all LEAs are able
6 to or have been able to take advantage and perhaps there's
7 a number of reasons for that.

8 For the future program it would say we're going
9 to establish the framework for that program. Since we're
10 not doing a formula, we also want to be fair to schools so
11 that we're -- again we have a wide spectrum of LEAs, some
12 very small, some very large. And obviously we don't want
13 to have the very large LEA competing against the very small
14 LEA. That would just seem very unfair.

15 And so as a result of that we've established some
16 parameters around that, so that in the future program that
17 there would actually be essentially buckets, if you will,
18 within each given size of the LEA. And those buckets were
19 based on frankly the proportion of the students. So that
20 it would be more reflective of the actual students that are
21 being served.

22 And it gives the Energy Commission the discretion
23 to actually readjust those if they so choose. But the
24 buckets are basically as she mentioned, which is 10 percent
25 of the money would be for LEAs with less than 1,000

1 students. And that is actually just a little bit more than
2 the proportion would be if -- and I should have the numbers
3 with me, which I can share with Ms. Gordon, which is that
4 that I believe is somewhere in like 8 percent neighborhood
5 for LEAs that are under 1,000. That's if you took the
6 number of students and what does that represent for the
7 whole state, that's roughly what they would represent. So
8 we're giving them 10 percent.

9 They would have a bucket of the money. About 10
10 percent of that money would be available to them and they
11 would apply for that and the Energy Commission would give
12 out the money, based on their application. And then
13 another 10 percent for those between 1,000 and 2,000, again
14 very reflective of the proportion of the students that they
15 are serving. And then the 80 percent would be for any LEA
16 that's 2,000 and above.

17 And it still gives the Energy Commission to a
18 further opportunity to refine those buckets if they believe
19 that there needs to be some adjustments, because we
20 recognize the struggle of an LEA that has 2,001 students
21 versus -- I'll just mention LAUSD, for example, they would
22 be in the same bucket -- however, once we start looking up
23 the numbers of the LEAs that 2,000 and above that became a
24 much smaller universe. And so it became harder to size it,
25 without creating basically a separate bucket for like the

1 large San Diego/LAUSD bucket, which that's not the idea.

2 At the end of the day, the school districts that
3 have to submit projects like they do today, that are not
4 reflective of the entire school district, but they were
5 specific projects at specific schools, but those are the
6 buckets. And I'll stop there, because I don't want to lose
7 you guys. But those are essentially the buckets to allow
8 for the LEAs to compete within their own class of size of
9 school that's serving the students and not have to compete
10 with the larger school districts.

11 CHAIR GORDON: Can you talk first about what
12 compete means in this new context, so is it still proposals
13 to CEC under the same criteria or has the whole thing
14 changed?

15 MS. BAUTISTA: Yes. Yes, and the belief again
16 this is still an energy savings program. We believe very
17 much it still should be continued to be house at the Energy
18 Commission. And so therefore this would be administered by
19 the Energy Commission.

20 I will say that this is not going to be a normal
21 competitive grant program, in the sense of like here
22 everybody competes all at the same time and then have the
23 CEC have to review 2,000 applications all at once. I mean
24 the hope is that we want to get the money out quickly. We
25 want to have a fair process. And the idea was that the

1 idea was that the language actually empowers the Energy
2 Commission, as it did with SB 73, that they can establish
3 guidelines so it's not regulations. It's guidelines.

4 In this case, they would be submitting
5 applications as they do with ECAA. So it's going to be a
6 very similar type process with the prioritization that the
7 legislation provides in terms of the type of students that
8 it's serving. So even within each class, there's a
9 recognition that there's certain needs that within each
10 class, whether you're a small school or a large school. If
11 there's students that are on free or reduced priced meal,
12 as an example we want to make sure that we're helping those
13 school districts or LEAs, I should say.

14 There's some other prioritization around
15 geography and making sure that we're being full geographic
16 diversity within the state, so it's urban, rural and
17 suburban. That we're not leaving out the rural districts
18 and also not leaving out the suburban districts, as an
19 example. And then also within the regions of the state,
20 which the legislation admittedly does not define, but I
21 think we have our -- are very hopeful that we'll be able to
22 the Energy Commission to make sure that the idea is that we
23 don't want all the money to go to the Bay Area and then the
24 rest of the state doesn't get any of the money. We want to
25 make sure that there's a good diversity there.

1 And frankly, it's a little tough sometimes to
2 crack that in the legislation without being like very
3 specific, "This many applications for this region." And we
4 try to avoid that, provide general guidance, and believe
5 that the Energy Commission has been doing a very good job
6 with this program.

7 And with your oversight and our continued
8 oversight, that we believe that they'll be able to meet
9 those expectations.

10 CHAIR GORDON: Thank you. I'm sorry, do you have
11 any --

12 MS. BAUTISTA: That's okay.

13 CHAIR GORDON: So first I want to say -- we'll
14 do questions -- but first I want to say that I think we
15 need to -- and it's passed already, there's not much we can
16 do. But I would like to see a copy of this, so we can
17 circulate it. And then we probably will have you come
18 back, or someone come back at the next meeting. So that
19 there's a goal of understanding of what's passed, we can
20 dive into it a little bit, because I think we're all
21 feeling a little blindsided.

22 MS. BAUTISTA: Okay. I'm sorry.

23 CHAIR GORDON: Okay. So that's the first thing
24 I'm going to say. I have other things to say, but let me
25 see if anyone else on the Board wants to ask questions

1 first. You guys?

2 VICE CHAIR RAY: Go ahead.

3 BOARD MEMBER DIAS: Yeah, I was going to say I
4 was going to wait until I see (indiscernible) --

5 MS. BAUTISTA: Okay.

6 VICE CHAIR RAY: Well, I don't understand the
7 political process as well as you do, Kate. You're a
8 genius.

9 CHAIR GORDON: Apparently not. (Laughter.)

10 VICE CHAIR RAY: But did I hear that we can
11 recommend or that the CEC can recommend, and people can
12 make applications, but at the end of the day the
13 Legislature and the Governor basically determine what's to
14 be done through the political process?

15 CHAIR GORDON: I don't think so. But I mean my
16 understanding, and let me just say, so what has happened
17 here -- and we all need to dig into it a little bit more --
18 is the deal with Prop 39 is the Legislature has always been
19 able to set the rules. And then the CEC has been asked to
20 be the guidelines, right? That's the deal.

21 So what's happening it seems to me, is that the
22 framework has been changed by the Legislature away from a
23 formula base and a guaranteed funding, to an annual
24 appropriation and a buckets approach, right? Within that
25 the CEC is still offering guidance and I assume your

1 guidelines process will be what it is, which is public
2 comment and the (indecipherable) involvement and constant
3 change and all those things we love. Is that right?

4 COMMISSIONER MCALLISTER: Yeah. So we definitely
5 appreciate the guidelines process versus having to develop
6 formal regulations. That's always a good thing, because it
7 allows flexibility in changing things more rapidly and in
8 response to the feedback.

9 But obviously, there's a lot to talk about in
10 terms of how we operationalize the recommendations in the
11 statute now, which are very high level. And I think
12 actually the -- I would anticipate that the Citizens
13 Oversight Board, that this body basically, which didn't
14 even exist for the most part when we first developed the
15 guidelines, because we -- you're goal -- you know all this
16 history there, right?

17 But now that it's established and meeting
18 regularly and there's sort of a body of knowledge that's
19 been developed, both in staff and across the stakeholder
20 groups and in the Board, I think there's a -- the
21 conditions for developing reasonable criteria and sort of
22 responding to the new legislation and the new framework
23 exists. But it'd be pretty premature to even talk about
24 the details of that before we get into the language itself
25 and then sort of enter the process.

1 MS. BAUTISTA: Well, I just wanted to add in
2 terms of the buckets and such that was all in 518, it had
3 similar constructs. So a lot of that construct, the idea
4 of an application and all that, that has been in the
5 legislation that's been moving, so in many ways that's
6 still reflected there. There's still been some tweaking of
7 the actual buckets, but still providing the Energy
8 Commission with the discretion to even address those as
9 needed.

10 CHAIR GORDON: Thank you.

11 David?

12 BOARD MEMBER DIAS: Yeah. The only thing I'm
13 just wondering about is I would just hope that if somebody
14 lives in a rural area and has the means to really go after
15 the funds, that somebody would hopefully show them the way
16 and all that, and the same with the disadvantaged
17 communities. And I hope that's part of the guidelines.

18 CHAIR GORDON: That actually is a good question.
19 And brings us to one of the things we had recommended in
20 our report, going to that exact question, was the help of
21 the CEC for doing technical assistance since they've been
22 doing that essentially unfunded. Is there any provision to
23 provide the CEC with any administrative funds here?

24 MS. BAUTISTA: Well, so since this bill
25 establishes just the framework, the budget in itself will

1 be --

2 CHAIR GORDON: It has to be appropriated.

3 MS. BAUTISTA: Yes. It will be appropriated in
4 future years. I very much suspect that I know that the
5 Energy Commission has been -- I don't want to
6 mischaracterize, but that they've also been going through
7 their just more broadly for the agency in terms of how
8 their staff being in all such are accounted for. But I
9 wouldn't be surprised to see BCP, Budget Change Proposals,
10 to account for, or budget proposals to account for staffing
11 needs around it. But it's not something that's in this
12 legislation, because again this legislation is not making
13 future appropriation. It's only establishing the framework
14 for when monies get appropriated in the future.

15 CHAIR GORDON: Thank you, Nidia. The only last
16 thing I wanted to say is and just because I have the
17 microphone (Laughter.) -- is that this Board probably knows
18 more than anyone except for the CEC in the State of
19 California, about how this program works. And we would
20 hope that we would be consulted in the future on some of
21 these big changes.

22 MS. BAUTISTA: Yeah.

23 CHAIR GORDON: And I appreciate Commissioner
24 McAllister reaching out to us on guideline changes. I
25 think we're very interested in being involved there. But

1 from the legislative side, this is a complex program that
2 we spend a lot more time thinking about than most people.

3 MS. BAUTISTA: Yeah. I recognize that.

4 CHAIR GORDON: So we just ask as the Board that
5 we are included too.

6 MS. BAUTISTA: Yeah, and I appreciate that
7 comment. Obviously, as you know with the legislative
8 process there's lots of cooks in that kitchen. And
9 certainly have the assumption at least, that with the
10 recommendations that your Board had put out, those were
11 certainly taken into consideration by the author when he
12 originally proposed his bill. And certainly helped inform
13 and shape this legislation going forward.

14 That's not to say that all recommendations
15 obviously always get implemented and this program is still,
16 you know, it's just establishing framework for the future.
17 That doesn't mean that that those things will not change in
18 the future either.

19 But and before I also leave, I also want to
20 mention those very key piece, that I think for the existing
21 program, that a lot of the schools and the Energy
22 Commission and everybody wanted clarity on. And that was
23 about the encumbrance date. So I did want to speak to
24 that, because I don't want a missed opportunity to do that.
25 And this legislation does move that encumbrance date to

1 June 30th, 2019.

2 And that will provide, hopefully schools, the
3 LEAs and the Energy Commission, everyone, the space and
4 time to actually complete again the full five-year program,
5 which was the full five years that were originally promised
6 in the initiative, obviously.

7 And so we're hoping that that gives everybody a
8 little bit of breathing room and again recognizing that the
9 monies, sweeps that are unallocated as of spring of next
10 year, those are not for LEAs that are participating in this
11 program.

12 And I would just say that I know the Energy
13 Commission has been working so hard at trying to reach out
14 to all those LEAs. They've been doing one-on-one contact
15 with them.

16 I know our extended offices have been doing that
17 as well, particularly with some of the larger public school
18 districts that haven't participated in the program. And
19 I'm so very pleased to see so many of those school
20 districts that were on that list are now getting their
21 awards approved. They're submitting applications.

22 So I think that's the good news like a little bit
23 of fire underneath them all and things are moving and
24 they're happening. And I know that that's not a small
25 endeavor when you're talking about 2,000 LEAs. So I want

1 to applaud the Energy Commission for that effort and also
2 recognize a lot of our senate offices that have been
3 reaching out. So they've been sending them lists and
4 making -- trying to get one-on-one contact.

5 And it's great when we do that and we find out
6 "Oh, we already submitted this application," or, "It's
7 approved."

8 So again, I think the overall message for this
9 program is it is working. We're seeing the SIR numbers are
10 generally good, great, which is like a 1.4 from the report
11 that you have. And the Energy Commission has. So the
12 energy savings are happening. The schools are getting
13 approved. Obviously the jobs are being created.

14 We know that energy efficiency is such a great
15 stalwart of our energy program here at the state and now
16 that the schools are actually a beneficiary of that is
17 fantastic. I know that a lot of our senators and members
18 of the Legislature are just so thrilled to have this
19 opportunity for their school districts.

20 And certainly we want to continue to work with
21 Citizens Oversight Board on future changes to the program.

22 CHAIR GORDON: Thanks.

23 Mark, do you want to say one last thing?

24 BOARD MEMBER GOLD: Just very simply, which is I
25 know you said that it's important that there's better

1 communication and investment of the Board. I would just
2 suggest when things are a little less insane in the Pro
3 Tem's office, we should meet and have a brief discussion on
4 these exact issues. Because I'm pretty sure the office
5 would be pretty pleased, as you said, with the progress
6 that's occurring.

7 MS. BAUTISTA: Yeah.

8 BOARD MEMBER GOLD: But also on costs where this
9 could be improved on and see if there's a lot of common
10 ground there, so understanding and rapport.

11 I understand this direction on how we're
12 parceling -- it's weird to parcel out a dollar amount that
13 could be zero, by (indiscernible) and so if we could get at
14 least some idea on what his thoughts are on what he
15 actually sees from the standpoint of -- you know,
16 (indiscernible) on the program working. We don't really
17 know if you're literally living hand to mouth, year to
18 year, have a better understanding of what at least the
19 expectations are, while he's there in the leadership.

20 Thank you.

21 MS. BAUTISTA: Thanks.

22 CHAIR GORDON: Great, thank you.

23 So I think we definitely would like to see a copy
24 of the bill obviously, which we can ask Jack for.

25 MS. BAUTISTA: I can give you a copy of that.

1 CHAIR GORDON: Yes.

2 Go ahead.

3 COMMISSIONER MCALLISTER: So we've talked about
4 it at the Energy Commission with them and our piece of the
5 program, which is great. And I appreciate that. I guess
6 I'm wondering was there anything else about the
7 conservation for the community colleges and things like
8 that? (Indiscernible)

9 MS. BAUTISTA: Thank you for asking, because I
10 did want to mention the community colleges portion.

11 So just like the existing program it allocate the
12 11 percent to the community colleges and then 89 percent to
13 the LEAs, the future program does as well. And even the --
14 so the future program will also give 11 percent to the
15 community colleges and then the LEAs.

16 In terms of the core and some of these other
17 programs that have been funded, this legislation does not
18 speak to that. And those would largely be future budgeting
19 decisions.

20 I know that there's a desire by the Corps for
21 that to happen, but --

22 CHAIR GORDON: So no specific funding for the
23 Conservation Corps or for the Workforce Corps or any of the
24 job (indiscernible) sites?

25 MS. BAUTISTA: Correct. And again none of the

1 future funding is being allocated in this legislation.
2 It's only setting up the framework, so.

3 CHAIR GORDON: Thank you.

4 So just closing out this item, unless there's
5 other comments and --

6 MS. BAUTISTA: Do the public make comments at
7 this point or no?

8 CHAIR GORDON: We usually do it at the very end,
9 but we can do it item by item. We'll do it item by item.
10 Just give me two minutes and then --

11 MS. BAUTISTA: Sure.

12 CHAIR GORDON: -- I did want to just remember
13 that we talked about getting a copy, which we'll get from
14 Jack, on the legislation. And then I think our next
15 meeting we will bring this up again. And ideally you'll
16 come back and maybe at the time (indiscernible) programs
17 office. But let's talk about that, so that we can all have
18 that understanding of the thought process and also have
19 moved forward.

20 BOARD MEMBER GOLD: A quick question?

21 CHAIR GORDON: Yes.

22 BOARD MEMBER GOLD: I promise. All right, so
23 this goes back to what I asked at the very beginning.

24 So all of this, everything you explained
25 obviously is done, because it's been approved in the budget

1 trailer bill, which has been signed by the Governor. So in
2 essence, is there still an SB 519 or I mean 518, sorry.

3 MS. BAUTISTA: Yes. So 518, as I mentioned it's
4 right now in Assembly Natural Resources Committee. So

5 BOARD MEMBER GOLD: Well, what's left on what you
6 want to achieve then?

7 MS. BAUTISTA: Yeah. So my understanding is the
8 author's not persuing moving that bill at this time. So
9 basically what was in 518 is in the budget trailer bill
10 now, so the purpose for 518 doesn't really exist now. So
11 it's parked in Assembly Natural Resources unless the author
12 chooses to do something else with it, or change something
13 in there and yeah.

14 BOARD MEMBER GOLD: That's really what I was
15 trying to get answered. Thank you.

16 MS. BAUTISTA: Yeah, I know it. You're welcome.

17 CHAIR GORDON: So we'll do public comment first
18 in the room and then I'll ask if anyone on the phone has a
19 comment.

20 Anna Ferrera?

21 MS. FERRERA: Anna Ferrera, School Energy
22 Coalition. We would just from on behalf of the SEC are
23 very grateful for SB 110. We worked closely with the Pro
24 Tem's Office on 518, virtually all of the content moved
25 over. And we are pleased as there's no bounds to how we

1 feel about 110, just because the money could have been
2 swept back into the general fund for the state. We see
3 this as a positive, but there's -- we'll have that fight.
4 Give us that problem of no funding in it right now. And
5 that the program would continue. And that the funding that
6 remains would be used for clean energy buses and the
7 purposes that the Pro Tem's Office laid out.

8 So as far as I wanted to make a comment about the
9 tiers, (phonetic) they had actually put in, I think it was
10 30/30/30. We made mention of the fact that those numbers
11 didn't coincide with the way those districts are spread out
12 in real life and population wise. So they made that
13 adjustment partly because we asked for it.

14 And we'll be working with them and working with
15 you to see that that goes forward. And we also believe
16 that CEC should be looking at administrative funding for
17 that purpose. I know when 518 was going through
18 appropriations, that was the first thing that they did in
19 their analysis was say that CEC, I think it was \$3 million
20 or something like that, so I think that was the thinking.

21 So we will back you up on that as well, so I'm
22 happy to be part of that process.

23 CHAIR GORDON: Thanks. Thanks for all of your
24 work also.

25 COMMISSIONER MCALLISTER: On the administrative

1 fund, really this just part of a broader (indiscernible)
2 in the Commission where if the Legislature asks us to do
3 something we might point out that we need resources, and
4 (indiscernible) and if we don't get explicit resources for
5 it we have to take it from somewhere else.

6 So we're just trying to make sure that before
7 they ask us something we have the resources to do a good
8 job and it's (indiscernible) --

9 MS. FERRERA: Oh, I'm sorry. One last thing.

10 CHAIR GORDON: Go ahead, Anna.

11 MS. FERRERA: And I don't -- I'm sorry I got here
12 late, but that question about the timelines for who is
13 included in the March 1st date of 2018?

14 I think what I heard, Nidia, Ms. Bautista say,
15 was that it was going to be for those who hadn't put in an
16 EEP as of yet? But it is a funny paragraph, just for the
17 record -- and I think that there is some discussion going
18 on about that. Also whether or not that means that's the
19 date of sweeping or that's the date of the EEPs being
20 turned in.

21 And we would like to see it that it was the EEPs
22 turned in. But given that it is just that universe of
23 schools, we're a lot less concerned about it now than we
24 were at the beginning.

25 So again, thank you.

1 CHAIR GORDON: Thank you.

2 Yes, come up. And how are you?

3 MR. ASHUCKIAN: I'm Dave Ashuckian, the Director
4 of the Efficiency Division who implements that Prop 39
5 Program.

6 I just want to point out that our Office of
7 Governmental Affairs and our legal folks have read SB 110.
8 And believe that although there's some language about
9 guidelines, that the specific provisions that require us to
10 do regulations has not been adopted by the Senate in the
11 Governor's bill. So that we do believe that we are still
12 obligated to actually do regulations in the new version,
13 rather than guidelines.

14 And if we can get some clarification on that, we
15 would certainly help. Because we prefer to do guidelines
16 obviously, but we believe that the language doesn't
17 actually allow us to do that.

18 MS. BAUGH: Yeah, so I'm going to actually
19 recommended that you have Kourtney Vaccaro, the Commission
20 Counsel, call me and we'll take a look at the bill.

21 MR. ASHUCKIAN: Okay.

22 MS. BAUGH: I see this all the time in
23 legislation, I know exactly what you're talking about when
24 (indiscernible) so maybe we can work with your office to
25 (indiscernible)

1 MR. ASHUCKIAN: Great. Thank you.

2 CHAIR GORDON: Thank you.

3 Is there anybody else in the room who wants to
4 make a comment? Is there anybody on WebEx, who wants to
5 comment on this specific item?

6 (No audible response.)

7 MS. MURIMI: Nobody has raised their hand on
8 WebEx.

9 CHAIR GORDON: All right. So we're hearing no
10 one has raised their hand on WebEx to comment on this item.

11 The last thing I'll say since I laughed at
12 everybody, and now I'll say something nice, which is that
13 we at the Board recommended the extension of this program.
14 And we recommended looking at the encumbrance date. And we
15 recognize that ECCA is a really important program and all
16 those things (indecipherable) on balance, it's good to know
17 that this is a program that's being taken seriously. And
18 it's being looked at as something to continue in the state.
19 And we look forward to continuing to communicate on it,
20 going forward.

21 All right, we are going to close out this item
22 and move to the next one.

23 So everyone on the Board knows that our two big
24 responsibilities on this Board, one is the report to the
25 Legislature on the overall direction of the program and we

1 just talked a lot about that. And the second is the actual
2 audit of the program, both the audit of the fund and also
3 the audit of the expenditures.

4 And we now actually have a report on that from
5 the Controller's Office, so I'm assuming you guys are the
6 Controller's Office. Come on up and please use the
7 microphone and introduce yourselves.

8 And I think what we'll have now is -- and one of
9 you is David -- is this you?

10 MR. SUPAN: Yes.

11 CHAIR GORDON: Hi, David. David Supan from the
12 State Controller's Office will be presenting the completed
13 report and then we will have a chance to ask questions.
14 This is a potential vote, so everybody pay attention.

15 All right. Go ahead, David.

16 MR. SUPAN: Good afternoon Chair and Board
17 Members, thank you for allowing the State Controller's
18 Office to present our audit results. My name is David
19 Supan, a Manager with the State Controller's Office
20 Division of Audits.

21 The State Controller's Office performed two
22 audits of the Clean Energy Job Creation Fund. I will be
23 presenting the results for the financial audit and my
24 colleague Lisa Kurokawa will be presenting the results for
25 the performance audit.

1 Under the authority of the interagency agreement
2 between the Citizens Oversight Board and the State
3 Controller's Office, the State Controller's Office
4 performed a financial audit of the Clean Energy Job
5 Creation Fund, recorded in the State General Fund for years
6 ended June 30th, 2014, 2015 and 2016. The audit also
7 fulfilled the Board's responsibility per Public Resources
8 Code 26201 of commissioning an annual independent audit of
9 the Clean Energy Job Creation Fund.

10 The State Controller's Office determined that the
11 fund's financial statements are fairly presented in all
12 material respects for each of the years ended June 30th,
13 2014, 2015 and 2016, in accordance with accounting
14 principles generally accepted in the United States of
15 America.

16 We noted a minor internal control issue related
17 to time sheets of the California Workforce Development
18 Board, which we reported in a separate management letter to
19 the Workforce Development Board. The Board's management
20 responded promptly to indicate that it had resolved this
21 issue. We issued our report on May 31st, 2017.

22 I'm available to answer any questions you may
23 have.

24 CHAIR GORDON: That was very succinct, thank you
25 David.

1 Can you tell us anything else about the issue
2 with the Workforce Development Board or is that not
3 relevant?

4 MR. SUPAN: There were a few timesheets that
5 lacked formal approval.

6 CHAIR GORDON: Thank you. Are there other -- I'm
7 going to ask if any of our Board members who are more
8 schooled in reading accounting balance sheets than I am,
9 questions or thoughts, particularly you Walkie, since we've
10 been through (indiscernible) audit this whole time.

11 VICE CHAIR RAY: No, I have no questions.

12 CHAIR GORDON: Any questions, Chelina?

13 BOARD MEMBER GOLD: It's as clean an audit as
14 you'll ever see. (Laughter.)

15 CHAIR GORDON: The audit looks good. Chelina,
16 did you want to say anything?

17 BOARD MEMBER ODBERT: Nothing.

18 CHAIR GORDON: All right, so are we -- so there
19 are two parts, just to remind everybody there's two parts
20 of this audit where this is just item five here, which is
21 the financial audit.

22 Given that there aren't any comments and debate,
23 I'd like to call for a vote on this motion to approve and
24 second.

25 BOARD MEMBER MARTINEZ: So moved.

1 BOARD MEMBER DIAS: Second.
2 CHAIR GORDON: Let's do a roll call please,
3 Eunice?
4 MS. MURIMI: I have a roll call for the Board.
5 Kate Gordon?
6 CHAIR GORDON: Yes.
7 MS. MURIMI: James Ray?
8 VICE CHAIR RAY: Yes.
9 MS. MURIMI: Chelina Odbert?
10 BOARD MEMBER ODBERT: Yes.
11 MS. MURIMI: Randall Martinez?
12 BOARD MEMBER MARTINEZ? Yes.
13 MS. MURIMI: David Dias?
14 BOARD MEMBER DIAS: Yes.
15 MS. MURIMI: Mark Gold?
16 BOARD MEMBER GOLD: Yes.
17 MS. MURIMI: Thank you.
18 CHAIR GORDON: Thank you. Thank you everybody.
19 And thank you, David. That was very helpful.
20 And now, I think item six we have Lisa Kurokawa,
21 which must be you?
22 MS. KUROKAWA: Yes.
23 CHAIR GORDON: Hi, there.
24 Giving a presentation on the other side of the
25 audit process, which is the Job Creation Fund expenditures.

1 MS. KUROKAWA: Yes. Good afternoon, Chair and
2 Board Members. Thank you for allowing the State
3 Controller's Office to present our audit results. As you
4 said earlier, my name is Lisa Kurokawa and I'm an Audit
5 Manager at the State Controller's Office, Division of
6 Audits.

7 Today, I'll be giving you an update on our
8 program audit of the California Clean Energy Jobs Act.
9 Under the authority of the interagency agreement between
10 the Citizens Oversight Board and the State Controller's
11 Office, we conducted a program audit of the job creation
12 fund. Our audit report was issued on June 30th, 2017. Our
13 audit took place over, we did it over two phases. So I'll
14 go over the two phases separately.

15 So phase one of our audit was to assess both the
16 California Energy Commission and the California Community
17 Colleges Chancellor's Office's controls over implementation
18 and administration of the job creation fund. As such we
19 reviewed the implementation guidelines developed by both
20 the Energy Commission and the Chancellor's Office and found
21 that they both comply with the applicable provisions of the
22 Public Resources Codes.

23 In addition, we reviewed the controls established
24 by both the Energy Commission and the Chancellor's Office
25 to ensure completeness of the form submitted by both the

1 local educational agencies and the college districts. We
2 found that both the Energy Commission and the Chancellor's
3 Office had adequate controls to ensure the completeness of
4 all forms submitted.

5 So the second phase of our audit was actually to
6 go out to school districts and college districts and do
7 testing. So part of our agreement is to audit a selection
8 of completed projects to determine whether the energy
9 projects were consistent with the job creation plan
10 program's guidelines.

11 So through June 30th, 2016, 29 local educational
12 agencies and 58 college districts reported completed energy
13 projects. To fund this listing of completed projects, we
14 selected 20 for audit. Of the 20, 16 were local
15 educational agencies with project costs of \$13 million.
16 And four were college districts with project costs of about
17 \$5 million. So in total, we audited \$18 million out of a
18 total of 52 million in total completed project costs.

19 The objective of our testing at the districts was
20 to determine the districts compliance with the various
21 Public Resources Codes. In our audit, we have identified
22 three audit findings, which I will go through right now.

23 Finding one, we found that four districts' sole
24 source, either a portion or all of their project costs when
25 awarding the Proposition 39 contracts, which is a violation

1 of Public Resources Code 26235 Section C. The four
2 districts have been identified on page 11 of our audit
3 reports. In our audit report we recommended that the
4 California Department of Education take appropriate action
5 in response to funds paid to these four districts that did
6 not meet the "no sole source" requirements.

7 Finding two, 15 districts did not include the
8 projected energy savings in the awarded contracts, which is
9 a violation of Public Resources Code Section 26206, Section
10 D. Again, the 15 districts that are in violation of this
11 provision are identified on page 12 of our audit report.

12 In our report, we also recommended that the
13 district comply with Public Resources Code 26206, Section D
14 and identify the projected energy savings in all awarded
15 contracts.

16 And then our last finding is finding three. One
17 district applied its Proposition 39 funds to project costs
18 incurred prior to the eligibility period. As such, we
19 found that \$20,458 is ineligible. And that's the entire
20 amount of that District's allotment. We recommended in our
21 audit report, for finding three, that the California
22 Department of Education take appropriate action in response
23 to the funds paid that are not eligible for Proposition 39
24 funding.

25 So that's really the conclusion of my

1 presentation. And I'm available if you guys have any
2 questions.

3 CHAIR GORDON: Go ahead, Chelina.

4 BOARD MEMBER ODBERT: Well, I guess I have a few
5 questions. And I'll start with the first one. Okay, so is
6 there a dollar amount that you guys (indecipherable) with
7 the second finding? Meaning that I don't know if there's a
8 requirement tied to that.

9 MS. KUROKAWA: Yeah. We decided finding two we
10 considered to be a procedural issue, so we did not identify
11 a dollar finding associated with that.

12 BOARD MEMBER GOLD: Does the same apply to
13 finding one?

14 MS. KUROKAWA: We do consider finding one to be a
15 dollar finding of about \$507,000. It's on page 11 of our
16 audit report and we do recommend that CDE take appropriate
17 action in response to those funds. So that's about
18 \$507,056 on page 11.

19 VICE CHAIR RAY: Of course, this is just a
20 sampling?

21 MS. KUROKAWA: Yeah. This is a sample of 20
22 districts.

23 VICE CHAIR RAY: Right. And out of how many
24 districts again?

25 MS. KUROKAWA: Twenty districts.

1 VICE CHAIR RAY: No, I'm sorry, out of the total
2 amount of districts?

3 MS. KUROKAWA: It's 29 plus 58.

4 VICE CHAIR RAY: So 87?

5 MS. KUROKAWA: Yes.

6 VICE CHAIR RAY: So you sampled a quarter of
7 them, correct?

8 MS. KUROKAWA: Correct.

9 VICE CHAIR RAY: Do you have reason to believe
10 that the findings, the sample would carry into the entire
11 district? I assume you do. And therefore say finding one,
12 which was \$507,000 worth of contracts that were sole source
13 awarded, that would become a total of 2 million?

14 MS. KUROKAWA: Oh, if you extrapolate it to --

15 VICE CHAIR RAY: Yeah, if you extrapolate it.
16 Yeah.

17 MS. KUROKAWA: We didn't extrapolate that. So I
18 can't make a comment on whether, if I went to the remaining
19 60 districts, if we'd have the same issue.

20 I will say these four districts identified on
21 page 11 are school districts. The college districts, which
22 is 58 of the 80, they all did -- the guidelines identified
23 by the Chancellor's Office are a little bit more strict
24 than the Energy Commission. So I don't believe we would
25 have an issue with the 58 college districts.

1 VICE CHAIR RAY: So if you excluded them from
2 statistics?

3 MS. KUROKAWA: Yes.

4 VICE CHAIR RAY: Well, what does one extrapolate
5 the 507,000 from?

6 MS. KUROKAWA: I can't extrapolate the 4
7 districts out of the 29 schools that had completed
8 projects. As you see from the list there's small schools,
9 there's big schools. I don't know that you can say that
10 there's some sort of comparative analysis that you can
11 make.

12 CHAIR GORDON: There was a lot of discussion
13 about finding one --

14 MS. KUROKAWA: Correct.

15 CHAIR GORDON: -- in the last few months among,
16 we were (indiscernible) part of the discussions, but there
17 was a lot of discussions.

18 I don't know, Commissioner McAllister, do you
19 want to weigh in on this at all? It's a little more
20 complicated than the way it's laid out here. I just want
21 to make sure that the Board understands what the
22 (indecipherable)

23 COMMISSIONER MCALLISTER: Yeah. So I mean, this
24 actually -- so "sole source" is very, very loaded term. It
25 has a lot of (indecipherable) history and procedural

1 precedent behind it. So and I would actually defer
2 probably to Dave or program staff to talk about this issue,
3 but the way determining is done and the standard way it's
4 done is I think pretty well established. And so I think a
5 lot of the discussion was kind of getting to a common
6 understanding about what sole source meant in this context.
7 But maybe Dave can brief us?

8 MR. ASHUCKIAN: Okay. Yeah, so Dave Ashuckian
9 again, from the Efficiency Division.

10 Our attorneys had quite an issue with the issues
11 of sole source because there's so many different types of
12 sole source through processes that the state has. We were
13 not in a position to help define sole sourcing, because of
14 the different procurement processes. And so we worked with
15 the attorneys at CCO to determine -- I'm sorry -- our
16 attorneys worked with your attorneys as well to determine
17 what we could come up with.

18 And I think we could come up with a mutual
19 understanding of the difficulty in defining these and
20 really it's the State Department of Education is really
21 actually also in a better position, because they are more
22 familiar with the contracting rules of the schools,
23 compared to what we have.

24 MS. KUROKAWA: I think I'd like to clarify that
25 this issue of no sole source, these four districts did

1 nothing. They've demonstrated nothing that they consider
2 other vendors. There's a lot of interpretation of what no
3 sole source means, though we learned the loosest term that
4 these districts provided us no documentation that they
5 considered any other vendors. There's nothing. They went
6 with the one vendor for whatever reason, so there's no
7 documentation to support that they considered anybody else.

8 MS. BAUGH: So I just want to chime here. This
9 is Heather for the lawyers.

10 So I believe what likely happened here, and I
11 could be wrong, but is that when this legislation passed
12 the new state constructs of contracting, and applied it to
13 local school districts, and they do not do their
14 contracting the way state agencies do their contracting.

15 So if that wasn't clearly identified in the
16 guidelines, they would have gone ahead and done what they
17 always do, which is to go out and seek a vendor that's
18 affordable for their budget, and have the work done. And
19 that would not be illegal under most of the typical rules
20 of (indecipherable).

21 So it's unlikely that the Department is going to
22 have them pay that back. So my (indiscernible) thinking
23 they were doing something wrong, they probably followed
24 their typical procedures. And didn't realize it, because
25 it wasn't in the guidelines.

1 I don't know that to be the case, but that is
2 what I would assume from the findings that I'm reading in
3 the report. So I just want to throw that out there for
4 your benefit, but those contracting rules at the local
5 level do not always track with the state procurement
6 requirements.

7 CHAIR GORDON: Randall, go ahead.

8 BOARD MEMBER MARTINEZ: I appreciate this
9 conversation. And I guess this program has been and
10 continues to be a work in progress. And I certainly
11 understand local procurement.

12 It just seems to me that we, as an oversight
13 board have a responsibility to make sure that dollars are
14 being spent appropriately, at least so that we can look at
15 each other in the eye and feel satisfied. And I'm frankly
16 worried about this, because it's been brought to our
17 attention. And if your speculation is correct, I think
18 that would be great, but I also think it's incumbent on us
19 to seek that type of clarification or some type of
20 clarification.

21 CHAIR GORDON: No, I appreciate that and I think
22 that's right. In the process the only thing I can say -- I
23 mean I am a lawyer, but not on this subject -- but the only
24 thing I can say is it became clear through these
25 discussions that there was a lack of clarity about what was

1 mentioned. And I appreciate what you said about your
2 definition of sole source.

3 One thing we recommended, I recommended,
4 unofficially recommended in those conversations was just
5 more clarity. So as we think about this next phase of the
6 program, this is something to think about, because we see
7 from these results that either there's a lack of clarity
8 and even if there was -- there's a lack of clarity for some
9 of these schools. For these (indecipherable) schools, this
10 is why we have an audit is to highlight these problems.

11 So this is good that you brought this to our
12 attention. The state, and now the Department of Education
13 knows about it, I do believe it's incumbent on us to make
14 sure that there is no confusion going forward about this
15 issue.

16 BOARD MEMBER MARTINEZ: Okay. Along those
17 lines, I'd like to suggest that maybe we as a group
18 formally ask the CDE to look into this and report back to
19 us.

20 CHAIR GORDON: We'll consider that in the motion
21 for approval.

22 Other comments on this, which I know is
23 complicated?

24 VICE CHAIR RAY: I don't know if these findings
25 evidence a good or bad or indifferent, because I don't know

1 what they should -- what we should have.

2 You do a lot of audits?

3 MS. KUROKAWA: Correct.

4 VICE CHAIR RAY: And for many agencies. May I
5 ask you, does this organization pass the sniff test?

6 MS. KUROKAWA: Well, I mean this is the one and
7 only one I've done of the Energy Commission, but over my 17
8 years of auditing I can attest that I've never had an audit
9 with no findings. So this is -- we see findings all the
10 time and it's just par for the course. And I think this is
11 more now about educating these school districts moving
12 forward, about what their requirements are.

13 And I've spoken with the Energy Commission about
14 these four districts in particular. And I know that
15 they've posted new information on their website and they're
16 requiring districts to certify that they aren't sole
17 sourcing. So I think actions have been taken to move
18 forward to make this issue be more public.

19 BOARD MEMBER ODBERT: Thank you.

20 CHAIR GORDON: Chelina, go ahead and then Mark.

21 BOARD MEMBER ODBERT: Okay. So that
22 clarification. I think if the macro that it is very
23 helpful to understand that the findings are common, and
24 this is one of those, and we can move forward from that.

25 I'm just wondering if, as an oversight committee,

1 we also have a responsibility to these monies in the
2 (indecipherable) funding. And maybe that's a question for
3 you or for anyone here, is it enough to sort of learn from
4 this particular finding or is it our role to seek further
5 clarification about the specifics of what was involved in
6 this finding?

7 One thing I think maybe adds to the concern is
8 that the four districts mentioned in finding one are also
9 part of the districts mentioned in finding two, which sort
10 of leads me to believe that the application process that
11 they just maybe got a lot of things wrong. And so again, I
12 just wondered should we concern ourselves at the oversight
13 committee level with these four districts or is that sort
14 of too in the weeds for us?

15 CHAIR GORDON: I don't actually know how to
16 answer that, thoughts from others?

17 Heather, it's sort in our -- it's in our legal
18 purview to commission the audit. In terms of any other, we
19 don't actually have formal oversight over any of these
20 schools, so.

21 MS. BAUGH: I think her recommendation though was
22 that the folks implementing (indecipherable) the agreements
23 -- and I'm sorry, I don't remember your name.

24 MS. KUROKAWA: Lisa.

25 MS. BAUGH: Lisa's recommendation was to have the

1 Department of Education look at this, for example. So from
2 my experience, and I've seen many, many audits, and this is
3 actually pretty good I will tell you. I've actually never
4 seen one that (indiscernible) is that we would let the
5 program staff figure out how to address the in the weeds
6 details.

7 But keep in mind that you've identified a place
8 where people are not clear or something else has happened.
9 But it sounds like it's not being clear, but if it happened
10 again and again, then you might think about it on a global
11 level, but I think you would follow her recommendation.

12 CHAIR GORDON: One thing we can consider Chelina,
13 to your point, it just strikes me as we're talking about
14 this that we've never had the Department of Education here
15 at a Board meeting, ever I don't think. And it might be
16 incumbent on us to get some representative from the
17 Department of Education to talk to us at the next meeting
18 about what their role is and how they are responding to the
19 audit. Would that be helpful?

20 Mark?

21 BOARD MEMBER GOLD: Okay, two questions. One on
22 -- I don't know, it's just because it's where I am -- I'm
23 just wondering why did LAUSD, why did we decide to not
24 target them?

25 MS. KUROKAWA: LAUSD did not have a completed

1 audit or any completed projects as of June 30th, 2016. So
2 they were not on our list to select. I mean, if they have
3 a completed project for next year we may select them, we
4 may not.

5 CHAIR GORDON: But LAUSD, as we know from
6 previous meetings like many big districts, pooled funds
7 from several of the years, so they could do a big, big, big
8 project. So they haven't finished it yet.

9 BOARD MEMBER GOLD: Okay. So the second question
10 was on finding two. And I was just curious whether it's
11 been part as part of the audit -- and the answer may be no,
12 so it's just ignorance on my part -- how the actual school
13 districts went about computing their energy savings. Was
14 it consistent across the board and do you feel comfortable
15 about that?

16 MS. KUROKAWA: I mean, it's the projected amount,
17 so it's not something I can as an auditor relate true
18 dollars and cents. And this is something that you can't
19 identify until many years after the project's been
20 completed.

21 BOARD MEMBER GOLD: But you might see that
22 there's a completely different set of assumptions used by
23 one district versus the other or is that in the controls?

24 MS. KUROKAWA: What they use to determine the
25 energy savings, most of the districts actually use the

1 energy calculators determined or the formula set up by the
2 Energy Commission. There's a formula and a calculator and
3 they use that formula.

4 BOARD MEMBER GOLD: Okay. Thank you.

5 MS. KUROKAWA: So the information -- that's the
6 issue in finding two is the information was available. It
7 was identified on the energy expenditure plans that were
8 submitted to the Energy Commission. So the issue was the
9 information was available. It was just not put in the
10 awarded contracts. So that's why we considered it to be a
11 procedural issue versus a monetary one.

12 CHAIR GORDON: Okay. On finding three,
13 recognizing you did not get documentation from that
14 district, so your recommendation is you have a finding that
15 they didn't do the project; that they did the work outside
16 of the timeline of Prop 39. Do you have a recommendation
17 on calling back that money or having them get it from
18 somewhere else?

19 MS. KUROKAWA: We believe that the money should
20 be -- CDE should take action on these funds. We believe
21 the costs to be ineligible. They did provide documentation
22 showing that the project was completed in November of 2013,
23 so that is the documentation that we were provided. In
24 discussing it with the districts we've included their
25 response. They said that the project was held up, but they

1 don't have any information to support that comment.

2 CHAIR GORDON: So just so to clarify from my
3 purpose, finding one and finding three, your recommendation
4 is the CDE to follow up. Finding two, in terms of
5 recommending district compliance whose job is that to get
6 that? Is that CEC on finding three?

7 MS. KUROKAWA: I think from our perspective, we
8 just told the district that you guys needed -- for future
9 projects, because a lot of these districts are going to be
10 doing future projects -- to just put it in the awarded
11 contract, if you have the information. So that's something
12 we just talked about. I don't know that I'm going to
13 recommend CDE take action on that.

14 CHAIR GORDON: They (indiscernible) -- go ahead,
15 Walkie.

16 VICE CHAIR RAY: Did we learn something in the
17 process of auditing that should be reduced to some writing,
18 two or three pages, and passed on to our LEAs so they don't
19 make mistakes in the future?

20 MS. KUROKAWA: Well, we -- all these three audit
21 issues we've been in very close contact with the Energy
22 Commission throughout the audit. And so I feel like
23 they've verbally told us that they've implemented some
24 changes based on these findings. So in moving forward, I'm
25 hoping that these issues will be less, but I can't state

1 until next year when we do the audit again.

2 CHAIR GORDON: Commissioner McAllister or CEC
3 staff, do you want to give us a little bit of an synopsis
4 of kind of what you've been trying to do in terms of
5 education and (indecipherable)?

6 COMMISSIONER MCALLISTER: Yeah. I guess I don't
7 think staff heard you. Hay Dave. So there's a question of
8 sort of summarizing our outreach in education to the
9 districts.

10 I did want to make one quick point though. You
11 know, we've really taken the attitude that absolutely we
12 have to -- all the rules, you know, would have to be in
13 place and we want to be as clear as possible this is
14 another opportunity to refine and make clear in all of the
15 schools about what the rules actually are.

16 But I think there's also a driving principal that
17 is just about good program design and kind of trying not to
18 create procedure where there isn't a need for procedure.
19 And so we want to get the money out and we want to get the
20 schools to get the projects done. And it's sort of finding
21 that balance between what we're going to layer on as
22 requirements and what's going to kind of just let them get
23 the job done. And so in general, I think we've done a
24 really good job at that.

25 And this is another kind of learning moment where

1 we can say, "Okay. Where are we seeing places where we can
2 tweak the guidelines and do this or that extra thing?" But
3 in general I'm really happy with the audit and appreciate
4 all the hard work that went into it, for sure.

5 MR. ASHUCKIAN: I will just add that the Energy
6 Commission's role as defined in the statute is very
7 specific too, of approving the plans and making sure that
8 they're cost effective and then basically passing that on
9 to the Department of Education.

10 We did, once we got those findings send out an e-
11 blast to all the LEAs letting know that they're responsible
12 for putting this information in their contracts. But
13 again, we never see those contracts and so we have no idea
14 what the procedure is. Even if we saw them, we wouldn't
15 know that there was a problem to follow through and so
16 that's been our position.

17 But we do our best to make sure that any
18 information that we have that helps the program operate
19 more efficient, effectively, we pass that along to all
20 participants.

21 CHAIR GORDON: Thank you.

22 Do we have other comments from the Board? I
23 realize I called for public comments on earlier item, so I
24 have to call for them again right, Heather? So do we have
25 public comments before we go to any motions on this item?

1 Anna, do you want to comment? Please come over
2 here to this mic, our stalwart public commenter.

3 (Laughter.)

4 MS. FERRERA: Sorry, guys. This is all very
5 interesting to us.

6 I mean I think that we'll have to double back
7 with our school districts that we represent up and down the
8 state. I can already see that there's a few of them that
9 we represent. My understanding was that there was --

10 (indecipherable) oh sorry. My understand was that there
11 was a concern raised at least with one of them, about
12 energy savings. And that they weren't able to show either
13 through a third party or elsewhere that there energy
14 savings, and they thought that they were okay. So I'm
15 surprised to see them on the list and I'd be curious to
16 know. I'm going to have to take a look at it myself.

17 MS. KUROKAWA: I don't know what district you're
18 talking about, but we included every single district's
19 comments at the end of our audit report.

20 MS. FERRERA: Okay.

21 MS. KUROKAWA: So if they provided us written
22 comments, it's included as an attachment C at the end of
23 each individual district's response.

24 MS. FERRERA: So even though they may have
25 provided information after the fact, they're still showing

1 up on the report?

2 MS. KUROKAWA: I mean, I can't -- I don't know
3 what district we're talking about. But if some districts
4 argued, as I said some districts argued, "Well, we have the
5 energy savings amounts identified in our expenditure plan
6 and we do talk about it at Board meetings," but the code
7 section's very specific that it needs to be in the awarded
8 contracts. And we stick to the language. I don't have the
9 ability to --

10 MS. FERRERA: I see. So then that would then be
11 CDE that would then follow up with them about whether they
12 complied or not?

13 MS. KUROKAWA: Well, finding two, sure. We take
14 it at the plain language of what it says. Energy savings
15 needs to be in the award contracts, so if they disagreed,
16 their comment is included. And we provided a rebuttal for
17 why we did not accept that response.

18 MS. FERRERA: Got it. I would second that idea
19 of having CDE come in and talk, especially at this critical
20 moment, where you would come, that they are now in the mode
21 of pulling back funds. This issue, again I don't know
22 about this particular situation. That was what they told
23 me that they had submitted other information that they felt
24 satisfied it.

25 But again, I do hear what you're saying from the

1 Controller's perspective.

2 The other piece about sole source is in regular
3 school construction world, energy has a lot of flexibility.
4 They're not even really required under 4217 Code section.
5 And so this new addition, again looking at how the sausage
6 gets made, at the end of the time that they were discussing
7 Prop 39 implementation there was an effort by -- I don't
8 want to say the wrong word, but it was union concerns about
9 making sure that folks went out for competitive bidding
10 even though on the norm, that is not the case with energy
11 projects for schools.

12 And so that language got put in at the very last
13 moment and so the language is not clear. We acknowledge
14 that, but we have been doing our darndest to talk to folks
15 about that language and make sure that there is some kind
16 of evidence. So I am concerned about that as well and we
17 will certainly double our efforts to make sure that they're
18 able to show something. And that is of some concern to me,
19 but it is conflicting, as the attorney mentioned.

20 So anyway, thank you.

21 CHAIR GORDON: Thank you.

22 What Anna is referring to is that there's a whole
23 different code section that exempts some projects that are
24 energy related from sole source project rules in the
25 schools context. And there's an argument about whether

1 this preempts that or not, and so that's where we are on
2 the schools sourcing.

3 MS. FERRERA: We believe it does.

4 CHAIR GORDON: Yes, I know you (indecipherable)

5 MS. FERRERA: And we've talked about that.

6 CHAIR GORDON: Yes, I know (indiscernible)
7 believes it does, but there is a big debate about this and
8 then there's a question about these four schools are in a
9 particular category, also.

10 So I think this is again the point of the audit
11 is to raise these issues. And this is the point for us as
12 a Board to try to get these issues sorted out, going
13 forward, now that we know about them, working with the CEC.
14 And I think ideally the Education Department would, who
15 actually has more contact with the schools than anybody
16 else, to get this be clear and sorted out for the future
17 programs, because we will continue to be in charge of the
18 audits, I assume.

19 Yes, Chelina.

20 BOARD MEMBER ODBERT: I have just a follow-up
21 question on a really, really small technical detail.
22 Someone had just mentioned in regards to finding two, I
23 believe it was you sir, that you don't ever see the
24 contacts. And finding two is about energy savings not in
25 the contracts. I'm just wondering, it seems like you --

1 like the Energy Commission is not the right place to look
2 for a resolution to that, because the contracts don't come
3 your way.

4 Could you clarify who does see the contracts or
5 where would that (indiscernible) need to exist?

6 MR. ASHUCKIAN: Yeah again, if this -- when Prop
7 39 was adopted and we became the implementer of the Energy
8 Savings Act this was our first foray into really dealing
9 with schools. And so we didn't understand, we still have a
10 very limited exposure to the procurement process that
11 schools go through.

12 We believe it probably is within the districts'
13 authority. Again, there are others here that probably have
14 a much better understanding of what the procurement process
15 is for school districts to go through. We believe because
16 CDE is responsible for allocated money, and making sure
17 that it's spent appropriately, we think at least CDE is
18 probably in a better position to evaluate that.

19 But again, we are literally just looking at the
20 proposed project, determining if it's cost effective, and
21 then saying yes. Based on what they're proposing to do,
22 we've given our stamp of approval based on cost
23 effectiveness. The procurement process is completely out
24 of our hands.

25 MS. FERRERA: I'm sorry. Can I say something

1 about too, this is really concerning to me. I'm sorry.

2 CHAIR GORDON: And we will talk about this again
3 at the next meeting, Anna.

4 MS. FERRERA: Okay. Yeah. I am very concerned
5 about that, because I think our schools may be thinking
6 that in the process of annual reporting, that there is the
7 savings that is being shown over time.

8 And I don't know -- I'm going to have to -- I
9 guess we didn't realize that the audit would be on that
10 contract only. And that if nobody's looking at that and
11 we're not able to -- I'm going to have to -- I think that's
12 something that's kind of some concern. If schools need to
13 have that in their contracts then I think that's something
14 we should be sharing with them. And I will certainly be
15 doing that as well.

16 And we need some clarification.

17 CHAIR GORDON: Thanks, Anna.

18 Just to be clear, on our side we audited on what
19 the guidelines say. So we are all trying to follow the
20 (indiscernible) So I think that's where the code calls for
21 projected, I don't think we should project the savings
22 being in the contract. That's sort of what these guys are
23 relying on and what we're relying on.

24 And absolutely if there are issues, we have some
25 of those things in the code (indiscernible) are able to

1 deal with them we need to talk about that. But I think we
2 understand that your job is to work with the codes.

3 MS. KUROKAWA: And I will say the Energy
4 Commissioner's guidelines do have language in there, but
5 they cite the Public Resource Code specifically for all
6 three of these findings. So all the criteria for these
7 issues: sole source, projected energy savings, are all very
8 clearly identified in the Energy Commission's guidelines.

9 CHAIR GORDON: Thank you. This is a learning
10 process for all of us, but we really appreciate it.

11 Is there anyone that is on the WebEx who wants to
12 comment on this item?

13 MS. MURIMI: No, again. No, there are no
14 comments on WebEx.

15 CHAIR GORDON: Thank you.

16 And I have a question for you. On one of the
17 recommendations Randall had made a recommendation that
18 somehow formally ask the Department of Education to look
19 into this sole source issue and help us clarify it. Is
20 that's something you would recommend that we do, just for
21 the next meeting when we have CEC here? Can we attach it
22 to the motion in some way? I'm just wondering how we want
23 to deal with that?

24 MS. BAUGH: We could certainly make it part of
25 the motion, so maybe the Chair can reach out and the

1 Executive Director (indecipherable)

2 CHAIR GORDON: Randall, is that all right?

3 BOARD MEMBER MARTINEZ: I'd accept that, thank
4 you.

5 CHAIR GORDON: All right, so --

6 MS. BAUGH: I don't think (indiscernible) should
7 do it, I mean I think we should let them know before they
8 come.

9 CHAIR GORDON: All right, so can we have a motion
10 on this item with -- this is a vote on approving this audit
11 -- to be clear just what this vote this. And attached to
12 that motion a recommendation that on behalf of the Board
13 that I reach out to the CDC both asking for this
14 clarification and inviting them to come to the next
15 meeting.

16 BOARD MEMBER MARTINEZ: So moved.

17 BOARD MEMBER ODBERT: Second.

18 CHAIR GORDON: Eunice, can we have a roll call
19 please?

20 MS. MURIMI: Yes. Call for members of the Board.
21 David Dias?

22 BOARD MEMBER DIAS: Yes.

23 MS. MURIMI: James Ray?

24 VICE CHAIR RAY: Yes.

25 MS. MURIMI: Chelina Odbert?

1 BOARD MEMBER ODBERT: Yes.

2 MS. MURIMI: Kate Gordon?

3 CHAIR GORDON: Yes.

4 MS. MURIMI: Mark Gold?

5 BOARD MEMBER GOLD: Aye.

6 MS. MURIMI: Randall Martinez?

7 BOARD MEMBER MARTINEZ: Yes.

8 All have passed.

9 CHAIR GORDON: Great.

10 Thank you for your good questions as always. I
11 also wanted to say thank you to the Controller's Office and
12 to people on the Board who -- it was a bit of a process
13 getting through this contract with you and getting through
14 the audit. And CEC played a big role in that as did our
15 lawyers and the Controller's Office, so thank you for all
16 your work. We really appreciate it and we look forward to
17 talking to you more about this in future years.

18 MS. KUROKAWA: You'll see us again next year.

19 CHAIR GORDON: Fantastic. Thank you.

20 So I think now I'll call for public comment on
21 any general issues, not raised already in any of the items.
22 And I know we did have somebody on the phone on WebEx
23 earlier, so I don't know if we have any WebEx comment.

24 MS. MURIMI: I'll open the full lines.

25 CHAIR GORDON: Again, the WebEx line is open for

1 anyone calling in with a comment. Is there anyone in the
2 room with a comment while we are waiting?

3 Anna, you don't have any more comments?

4 MS. FERRERA: Yes, no more comments on this.

5 CHAIR GORDON: Any comments from the phone?

6 MS. MURIMI: No comments at this time.

7 CHAIR GORDON: Okay. So just before we adjourn,
8 let me say it is on my agenda to reach out to CEC about the
9 next meeting, or CDE, I'm sorry, about the next meeting,
10 that's the Department of Education.

11 And also we will revisit SB 110 at the next
12 meeting and reach back out to the (indecipherable) as well
13 as ideally someone from the Pro Tem's Office to talk more
14 about the substance of that bill.

15 So those are my agenda items. Does anybody have
16 anything before I adjourn?

17 (No audible response.)

18 All right. Thank you everybody, the meeting is
19 over. Thanks so much.

20 (Adjourned at 2:47 p.m.)


21 --oOo--
22
23
24
25

REPORTER'S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of July, 2017.



PETER PETTY
CER**D-493
Notary Public

TRANSCRIBER'S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of July, 2017.



Myra Severtson
Certified Transcriber
AAERT No. CET**D-852